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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,415	04/16/2004	Frank Doecke	P3414US1 (119-0039US)	9840
61947 7590 05/04/2011 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI LLP 20333 Tomball Parkway SUITE 600 HOUSTON, TX 77070				
EXAMINER RUTLEDGE, AMELIA L.				
ART UNIT 2177		PAPER NUMBER		
NOTIFICATION DATE 05/04/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

WCPATENTS@COUNSELIP.COM
kgonzalez@counselip.com
cmiles@counselip.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/826,415

Applicant(s)

DOEPKE ET AL.

Examiner

AMELIA RUTLEDGE

Art Unit

2177

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: _____
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

/Amelia Rutledge/
Primary Examiner, Art Unit 2176

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' Remarks, filed 04/18/2011 have been fully considered, but are not persuasive.

In response to applicants' argument that Newman does not disclose the limitation of independent claim 1, "identify a plurality of multimedia assets that define a transition, the multimedia assets including at least one multimedia asset being user supplied and being generated independent of: any predefined multimedia assets provided by the video editing application, the source multimedia object, and the target multimedia object," Newman does expressly disclose a user supplied multimedia asset used to define a transition.

At col. 3, l. 45-67, Newman discloses: "The present invention allows consumers to capture hypermedia from real-time on-line sources, such as broadcast radio and television, pay per view cable/satellite television services and the World Wide Web portion of the Internet, as well as off-line sources, such as video cassette tapes, laserdiscs, DVDs and compact discs. Analog hypermedia is digitized and may be compressed for storage. Consumers may replay the captured hypermedia in addition to selectively capturing and manipulating hypermedia portions, or clips, using the graphical user interface (GUI) of the present invention. Captured clips appear as icons on the GUI and consumers may combine captured clips by manipulating their respective icons to effect a wide variety of editing functions, such as fades, dissolves, wipes, and animated effects. Consumers may also use the point, click, drag and drop functionality of the GUI to integrate captured clips onto a timeline to form a motion picture clip. In a similar manner, consumers may edit and incorporate still photographs, audio, text and other data for incorporation into a clip."

While applicants argue that Fig. 11 of Newman shows a transition GUI where the transition asset is not independent of the source and target multimedia object, this interpretation of Fig. 11 appears to be contrary to the cited portion of Newman, above. Further, the cited portion of Newman describes multimedia objects or assets in addition to the source and target objects (for example, the preceding and following clips). As claimed, a transition clip or image may be reasonably interpreted to be a clip placed between two other clips, the source clip and target clip, in a series of media.

Therefore, in response to the Remarks, p. 10-14, at least the above portion of Newman discloses the limitation of claim 1, and it is believed that the rejections under 35 USC 102(b) should be maintained.

For similar reasons, in that a transition clip or image may be reasonably interpreted to be a clip placed between two other clips, the source clip and target clip, in a series of media, it is believed that the rejections of claims 22, 26, 28, and 34 under 35 USC 103(a) should be maintained (Remarks, p. 14). For similar reasons, Newman discloses an "x-asset key" as claimed in claim 22 (Remarks, p. 15).